

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Jamie Terrell Henderson, #12312,)	C/A NO. 8:07-1785-CMC-BHH
)	
Plaintiff,)	
)	ORDER
v.)	
)	
Lee Foster, Sheriff of Newberry County,)	
R. Tunstall, Judge in Greenwood County;)	
NFN Kitchen, Lt. of Newberry County)	
Detention Center; and NFN Clalahan,)	
Officer at Newberry County Detention)	
Center,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation. On August 20, 2007, the Magistrate Judge issued a Report recommending that Plaintiff's complaint be summarily dismissed as to Defendant Tunstall. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff has filed no objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which

a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Plaintiff’s complaint as to Defendant Tunstall is summarily dismissed without issuance and service of process on this defendant.

The court notes that Plaintiff’s mail is being returned to this court, indicating that he is not in the facility where he has directed that his mail be sent. *See* Docket Entry Numbers 16 and 17. Therefore, the court directs that Plaintiff notify the court by **Friday, September 28, 2007**, whether he wishes to pursue this action. Plaintiff is advised that failure to comply with this court’s order will result in the dismissal of this matter with prejudice pursuant to Federal Rule of Civil Procedure 41(b). Pending this deadline, this matter is returned to the Magistrate Judge for further pretrial proceedings.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 11, 2007